

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
ENFORCEMENT AND REMOVAL OPERATIONS  
ICE HEALTH SERVICE CORPS**

**AVAILABILITY OF HEALTH CARE**

**IHSC Directive: 03-31**

**ERO Directive Number: 11852.2**

**Federal Enterprise Architecture Number: 306-112-002b**

**Effective Date: 18 Mar 2016**

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**By Order of the Acting Assistant Director  
Stewart D. Smith, DHSc/s/**

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- 1. PURPOSE:** The purpose of this issuance is to set forth the policies and procedures for determining the availability of health care in other countries for detainees being repatriated.
- 2. APPLICABILITY:** This directive applies to all U.S. Immigration and Customs Enforcement (ICE) Health Service Corps (IHSC) personnel, including but not limited to, Public Health Service (PHS) officers, civil service employees and contract personnel. It is applicable to IHSC personnel supporting health care operations in ICE-owned or contracted detention facilities, in Intergovernmental Service Agreement Agency (IGSA) facilities, and to IHSC Headquarters (HQ) staff.
- 3. AUTHORITIES AND REFERENCES:**
  - 3-1.** Title 8, Code of Federal Regulations, Section 235.3 ([8 CFR § 235.3](#)), Inadmissible Aliens and Expedited Removal;
  - 3-2.** Section 232 of the Immigration and Nationality Act, as amended, Title 8, U.S. Code, Section 1222 ([8 U.S.C. § 1222](#)), Detention of Aliens for Physical and Mental Examination;
  - 3-3.** Title 8, Code of Federal Regulations, Part 232 ([8 CFR 232](#)), Detention of Aliens for Physical and Mental Examination;
  - 3-4.** Section 322 of the Public Health Service Act, as amended, Title 42 U.S. Code, Section 249(a) ([42 U.S.C. § 249\(a\)](#)), Medical Care and Treatment of Quarantined and Detained Persons; and
  - 3-5.** Title 42, U.S. Code, Section 252 ([42 U.S.C. § 252](#)), Medical Examination of Aliens.

**4. POLICY:** IHSC provides medical recommendations concerning the availability of health care in other countries. IHSC responds to ICE's requests inquiring about the availability of health care for detained and non-detained aliens who may be returning to their country of origin or another country.

**4-1.** ICE/Enforcement and Removal Operations (ERO) Officers, per protocol, and Field Medical Coordinators (FMCs) throughout the U.S. refer detained and non-detained cases to IHSC HQ to assist with the determination of health care availability in the requested country.

- a. ICE/ERO Officers, per protocol, and FMCs complete an Intake Request Form (see *Availability of Health Care Case Completion Guide*, Appendix A) which details the alien's pertinent health and demographic information.
- b. ICE/ERO Officers, per protocol, and FMCs email the completed Intake Request Form to the designated staff member at IHSC HQ.
- c. The designated staff member assigns the request to a point of contact (POC) within the IHSC HQ Medical Case Management Unit (MCMU) or the IHSC HQ Behavioral Health Unit (BHU), and enters it into a tracking log.

**4-2.** The MCMU and BHU HQ POCs respond to a request with a letter (templates are found in *Availability of Health Care Case Completion Guide*, Appendix A.)

- a. The MCMU and BHU HQ POCs investigate what medical care the alien needs to include:
  - (1) Medications
  - (2) Medical Procedures
  - (3) Medical Specialists
- b. The MCMU and BHU HQ POCs determine if medical care, or an appropriate alternative, is available in the requested country, taking into consideration the ease of access and affordability.
- c. The MCMU and BHU HQ POCs write a determination letter, advising on the availability of health care in the requested country, and send the letter to the Deputy Assistant Director of Clinical Services/IHSC Medical Director, or designee, for review and signature.

**4-3.** The MCMU and BHU HQ POCs document case information.

- a. The MCMU or BHU HQ POC saves any relevant research or supporting materials.
- b. The MCMU or BHU HQ POC advises the designated staff member at HQ of case status for documentation and closure in the tracking log.

**5. PROCEDURES:** The procedures to follow are outlined in the *Availability of Health Care Case Completion Guide* located on SharePoint: [All Guides](#)

**6. HISTORICAL NOTES:** This directive replaces the previous version dated 29 May 2015. The only change is the NCCHC reference from 2008 to 2014.

**7. DEFINITIONS:** See definitions for this policy in the IHSC Glossary located on SharePoint: [GLOSSARY FOR IHSC OFFICIAL GUIDANCE](#)

**8. APPLICABLE STANDARDS:**

8-1. **Performance-Based National Detention Standards (PBNDS) 2011:**  
4.3 Medical Care, V. Expected Practices, W. Continuity of Care.

8-2. **American Correctional Association (ACA):**

- a. Performance-Based Standards for Adult Local Detention Facilities, 4th edition; 4-ALDF-4C-04, Continuity of Care.
- b. Standards for Adult Correctional Institutions, 4th edition; 4-4347, Continuity of Care.
- c. Performance-Based Standards for Correctional Health Care in Adult Correctional Institutions, 1st edition; 1-HC-1A-04, Continuity of Care.

8-3. **National Commission on Correctional Health Care (NCCHC):**  
Standards for Health Services in Jails, 2014; J-E-13, Discharge Planning.

**9. PRIVACY AND RECORDKEEPING.** IHSC maintains detainee health records in accordance with the Privacy Act and as provided in the Alien Health Records System of Records Notice, 80 Federal Register 239 (Jan. 5, 2015). The records in the electronic health record (eHR) system/eClinicalWorks (eCW) are destroyed ten (10) years from the date the detainee leaves ICE custody. Retention periods for records of minors may differ. Paper records are scanned into eHR and are destroyed after upload is complete.

**Protection of Medical Records and Sensitive Personally Identifiable Information (PII).**

- 9-1. Staff must keep all medical records, whether electronic or paper, secure with access limited only to those with a need to know. Staff should lock paper records in a secure cabinet or room when not in use or not otherwise under the control of a person with a need to know.
- 9-2. Only authorized individuals with a need to know are permitted to access medical records and Sensitive PII.
- 9-3. Staff should reference the Department of Homeland Security *Handbook for Safeguarding Sensitive PII* (Handbook) at:  
(b)(7)(E) [REDACTED]  
when additional information is needed concerning safeguarding sensitive PII.

10. **NO PRIVATE RIGHT STATEMENT.** This directive is an internal policy statement of IHSC. It is not intended to, and does not create any rights, privileges, or benefits, substantive or procedural, enforceable against the U.S.; its departments, agencies, or other entities; its officers or employees; or any other person.